

REMARKS/ARGUMENTS

Claims 1-94 are pending in the present application. Claims 6, 7, 17, 20-26, 28, 29, 31, 35, 38, 42, 47, 50-53, 68, 74, 75, 77, 78, 81, 82, 85, 86, 88, 91, 93 and 94 are canceled and claims 1 and 61 are amended. Following entry of the present amendment, claims 1-5, 8-16, 18, 19, 27, 30, 32-34, 36, 37, 39-41, 43-46, 48, 49, 54-67, 69-73, 76, 79, 80, 83, 84, 87, 89, 90 and 92 will be pending. Applicants remarks are presented below in the order in which issues were presented in the Office Action mailed March 11, 2003. Favorable consideration is respectfully requested.

**Rejection of Claims 9-11, 36-40, 47, 66-68, 89-92 and 94 Under 35 USC § 112,
Second Paragraph**

Claims 9-11, 36-40, 47, 66-68, 89-92 and 94 stand rejected under 35 USC § 112, second paragraph, for reasons primarily based on an alleged lack of antecedent basis. Applicants respectfully traverse.

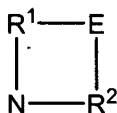
(a) Claims 9 and 10 are rejected as lacking antecedent basis as "phenyl substituted ...with a divalent moiety that forms a ...ring..." suggests a bicyclic system that is allegedly not recited in claim 3. Applicants note that claim 3 provides that "R² is optionally substituted phenyl..." (dependent from claim 2 wherein "R² is optionally substituted aryl..."). The nature of the substituents encompassed by the claims is provided on page 7, line 15 to page 9, line 28. At page 9, lines 19-28, Applicants have described several embodiments wherein the substituents form a second ring with the aryl (or heteroaryl) moiety to which it is attached.

In view of the description in the specification and the full scope of substituents, Applicants submit that claims 9 and 10 find sufficient antecedent basis in the claims from which they depend. Accordingly, Applicants respectfully request that this rejection be withdrawn.

(b) Claim 11 stands rejected as being dependent on claim 10. In view of the remarks above, Applicants believe this rejection is moot and respectfully request reconsideration.

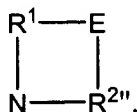
(c) Claims 36-40 stand rejected as allegedly lacking antecedent basis for reciting compounds in which R^1 and R^2 are combined to form a ring. The Examiner has noted that claim 1 does not recite R^1 and R^2 forming a bicyclic system. Applicants respectfully disagree.

Claim 1 recites that R^1 and R^2 may be connected by a linking group E to give a substituent of the formula



wherein E represents a bond, (C1-C4) alkylene, or (C1-C4) heteroalkylene, and the ring formed by R^1 , E, R^2 and the nitrogen atom contains no more than 8 atoms. This option for the combination of R^1 , E, R^2 and the nitrogen atom is not limited to only certain members of the previous Markush listing for R^1 and R^2 . For those systems in which R^2 is a phenyl group, bicyclic systems are included (as further evidenced by the dependent claims).

Applicants further note that claim 2, depending from claim 1, recites compositions in which the compound has an R^2 group that is an optionally substituted aryl or optionally substituted heteroaryl. This limitation only relates to the list of R^2 groups provided in claim 1 and does not limit the notation in claim 1 "wherein R^1 and R^2 may be connected by a linking group E to give a substituent of the formula



See also claim 3 where it is specifically recited that no linking group E between R^1 and R^2 is present. Accordingly, claim 2 includes those compounds in which R^2 is an aryl or heteroaryl group and is optionally attached via E to R^1 to form a ring (with the nitrogen atom to which each of R^1 and R^2 is attached) having no more than 8 atoms. Claim 37 provides an illustration of such a group (an indole), wherein R^1 is $-\text{CH}=\text{CH}-$ and is attached to the 2-position of R^2 (which is phenyl) to form an indole (such that E is a bond). Similarly, claims 39 and 40 provide additional limitations on the ring that is formed by R^1 , E, R^2 and the nitrogen atom.

In view of the remarks above, Applicants respectfully request reconsideration.

(d) Claim 47 has been canceled.

(e) Claims 66-68 are rejected as allegedly lacking antecedent basis in claim 62. For the reasons provided above with respect to claims 9 and 10, Applicants respectfully request reconsideration.

(f) Claims 90-92 are rejected as allegedly lacking antecedent basis in claim 89. Again, the Examiner is concerned that the combination of R¹ and R² must form a *monocyclic* ring system (i.e., unfused to any R¹ or R² rings that would be present). Applicants respectfully note that such limitations are not provided in the independent claims. This position is further supported by the recitations in the dependent claims. Applicants request reconsideration of this rejection.

(g) Claim 94 has been canceled.

Rejection of Claims 1-5, 8, 12-16, 18, 19, 27, 30-34, 41, 43-49, 54-65, 69-73, 76, 79, 80, 83, 84 and 87 under the Judicially-Created Doctrine of Obviousness-type Double Patenting over U.S. Patent No. 5,880,151; Rejection of Claims 1-3, 9, 11, 36 and 37 under the Judicially-Created Doctrine of Obviousness-type Double Patenting over U.S. Patent No. 6,121,304; and Rejection of Claims 1, 30, 31, 43, 44 and 54-61 under the Judicially-Created Doctrine of Obviousness-type Double Patenting over U.S. Patent No. 6,316,484.

Applicants respectfully request that the rejections under the judicially-created doctrine of obviousness-type double patenting be held in abeyance until subject matter is otherwise found allowable. Should these rejections still be set forth at that time, Applicants intend to file suitable terminal disclaimers.

Rejection of Various Claims under 35 USC § 101 as Claiming the Same Invention as Claimed in U.S. Patent Nos. 5,880,151, 6,121,304 and 6,316,484.

In view of the cancellation of the claims indicated by the Examiner as claiming the same invention as claims of Applicants' earlier patents, Applicants respectfully request that this rejection be withdrawn.

Appl. No. 09/972,743
Amdt. dated September 11, 2003
Reply to Office Action of March 11, 2003

PATENT

Rejection of Claims 1 and 61 under 35 USC § 102(b)

Claims 1 and 61 stand rejected as being anticipated by Sato et al., EP 469,901 ("Sato"). In particular, the Examiner notes that compounds 56 and 81 of Sato are embraced by the claimed formula I.

In view of the amendments to claims 1 and 61, Applicants respectfully request that this rejection be withdrawn.

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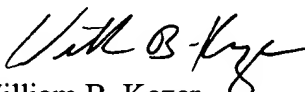
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,


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